

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

WILLIAM ANTHONY COLÓN,

Plaintiff

v.

RUBÉN BLADES, ROBERTO
MORGALO, MARTÍNEZ MORGALO &
ASSOCIATES.

Defendants

RUBÉN BLADES,

Cross-Plaintiff

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ROBERT MORGALO, in his personal capacity and as owner and member of MARTÍNEZ, MORGALO & ASSOCIATES, LLC; MARTÍNEZ, MORGALO & ASSOCIATES, LLC.

CIVIL 07-1380 (JA)

Cross-Defendants

ROBERT J. MORGALO,

Plaintiff

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RUBÉN BLADES, RUBÉN BLADES
PRODUCTIONS, INC..

Defendants

1 CIVIL 07-1380 (JA)

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3 OPINION AND ORDER
45 This matter is before the court on motion for reconsideration of the Opinion
6 and Order dated March 19, 2010, filed by the Roberto Morgalo ("Mr. Morgalo")
7 on March 29, 2010. (Docket No. 153.) A motion in opposition was filed by Rubén
8 Blades ("Mr. Blades") on March 31, 2010. (Docket No. 155.) For the reasons set
9 forth below, Mr. Morgalo's motion is DENIED.
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11 I. BACKGROUND

12 On February 16, 2010, Mr. Blades filed a motion requesting the court to
13 order Mr. Morgalo and William Anthony Colón ("Mr. Colón") to produce a box of
14 documents containing financial information of Martínez, Morgalo & Associates.
15 (Docket No. 119, at 2, ¶ 1.) In his motion, Mr. Blades claimed that despite its
16 numerous requests he was never given access to the documents. (*Id.*)
1718 On January 18, 2010, Mr. Morgalo opposed Mr. Blades' motion to compel.
19 (Docket No. 121.) Mr. Morgalo contended that he could not be compelled to
20 produce the documents. (*Id.*) According to him, the requested documents were
21 turned over on April 22, 2009, to Mr. Colón's attorney during the deposition of Mr.
22 Blades. (*Id.* at 3, ¶¶ 3-4.) Also, Mr. Morgalo claimed that Mr. Blades had
23 acknowledged the receipt of the documents, and that the requested discovery was
24 not under his control. (*Id.* at 4, ¶ 6 & at 7, ¶ 14.)
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1 CIVIL 07-1380 (JA)

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4 On February 22, 2010, Mr. Blades filed a reply memorandum of law in
5 support of his motion to compel. (Docket No. 124.) Mr. Blades contends that he
6 never acknowledged receipt of the documents. (*Id.* at 3, ¶ 7.) Also, Mr. Blades
7 argues that the requested documents had to be produced regardless of whether
8 they were in Mr. Morgalo's possession. (*Id.* at 6-8.) According to Mr. Blades, Mr.
9 Morgalo had control over the documents because he had a legal right over them.
10 (*Id.*)

12 On March 2, 2010, Mr. Colón filed an informative motion in which he
13 indicated that his attorney searched for the document but that he was not able to
14 find them. (Docket No. 134, at 4, ¶ 7.) According to Mr. Colón the documents
15 sought by Mr. Blades were probably picked up from his attorney's office either by
16 Mr. Morgalo or by another person. (*Id.* at 2-3, ¶ 4.)

18 On March 19, 2010, an Opinion and Order was issued granting Mr. Blades'
19 motion to compel production of documents. (Docket No. 145.) As a result, Mr.
20 Morgalo was precluded "from presenting as evidence any of the documents
21 requested by Mr. Blades and/or any testimony related to them." (*Id.* at 14.)
22 Also, "Mr. Morgalo [was] ordered to pay \$1,000 in attorney's fees to Mr. Blades."
23 (*Id.*)

25 On March 29, 2010, Mr. Colón filed a motion informing that the documents
26 had been discovered and that they were available for immediate review and
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1 CIVIL 07-1380 (JA)

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3 delivery. (Docket No. 152.) On that same day, Mr. Morgalo filed a motion
4 seeking reconsideration of the Opinion and Order. (Docket No. 153.) In his
5 motion, Mr. Morgalo contends that since all of the parties admitted that the
6 documents were turned over to Mr. Colón's attorney on April 22, 2009, he was not
7 required to provide a statement under oath indicating that the documents
8 requested by Mr. Blades had been produced. (*Id.* at 2, ¶ 3.) Mr. Morgalo also
9 argues that contrary to what the court held, the documents that were requested
10 by Mr. Blades were not under his control. (*Id.* at 3, ¶ 4.)

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12 Mr. Morgalo claims that he requested the documents on multiple occasions
13 but they were never produced because they had been misplaced by Mr. Colón's
14 attorney. (*Id.*) Mr. Morgalo also argues that he did not have the authority or
15 ability to obtain the documents. (*Id.*) Mr. Morgalo thus requests that: (1) the
16 sanctions that were imposed be vacated; (2) he no longer be precluded from
17 presenting as evidence any of the documents that were requested by Mr. Blades;
18 (3) if the court finds that sanctions are still appropriate, that they be imposed
19 upon Mr. Colon.¹ (*Id.* at 5.)

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24 ¹ Mr. Morgalo also requests that the court clarify a finding set forth in page
25 10, lines 13-16 of the Opinion and Order, which reads as follows: "Mr. Colón
26 claims that a few days prior to the concert, Mr. Blades informed him that Mr.
27 Morgalo had disappeared with their money." (Docket No. 153, at 4, ¶ 7.)
According to Mr. Morgalo, the court's finding is not supported by the record. (*Id.*
at 5.) Mr. Morgalo claims that the court's finding is incorrect because in the
amended complaint, Mr. Colón alleges that Mr. Blades informed him that Arturo
Martínez ("Mr. Martínez") was the one who disappeared with the money and not

1 CIVIL 07-1380 (JA)

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3 On March 31, 2010, Mr. Blades opposed to Mr. Morgalo's motion for
4 reconsideration. (Docket No. 155.) Mr. Blades argues that there is no reason
5 that would justify modifying or vacating the Opinion and Order. (Id. at 4, ¶ 9.)
6 According to Mr. Blades he was not able to incorporate the evidence requested
7 into his litigation strategy and depose Mr. Morgalo. (Id. at 2, ¶ 3.) Also, Mr.
8 Blades claims that the documents have not yet been produced, and that there is
9 no guarantee that the documents that were delivered by Mr. Morgalo to Mr. Colón
10 have bee preserved or maintained. (Id.) He argues that there is still no index,
11 log or useful description of the documents, which he believes could have been
12 removed, destroyed or lost. (Id.) Mr. Blades requests that, if the court were to
13 reconsider, facts 2-28 of the amended cross-claim be established for trial or that
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17 him. (Id. at 4, ¶ 7.) Mr. Blades on the other hand argues that although it is true
18 that in the amended complaint it is alleged that Mr. Martínez disappeared with the
19 money, paragraph 23 of the amended cross-claim states that both Mr. Morgalo
20 and Mr. Martínez disappeared and could not be found to account for the money.
21 (Docket No. 155, at 4, ¶ 10.) Thus, Mr. Blades claims that "[w]ith such additional
22 record reference, the recitation of facts is correct." (Id.) After reviewing the
23 amended complaint, I find that the findings of facts in the Opinion and Order need
24 to be clarified. As Mr. Morgalo points out, the amended complaint states that Mr.
25 Martínez was the one who disappeared with the money and not him. (Docket No.
26 45, at 2-3, ¶ 13.) As to the amended cross-claim, it is alleged that Mr. Morgalo
27 and Mr. Martínez disappeared and that there was not anyone who could account
28 for the money. (Docket No. 56, at 7, ¶ 23.) It is not, however, alleged that Mr.
Morgalo and Mr. Martínez disappeared with the money. (Id.) Thus, the findings
of fact cannot be corrected as Mr. Blades proposes. What Mr. Blades suggests is
for the court to infer that Mr. Morgalo disappeared with the money. That will not
happen.

1 CIVIL 07-1380 (JA)

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3 he be entitled to an inference that the evidence sought and not produced by Mr.
4 Morgalo was unfavorable to him. (Id. at 3, ¶ 5.) Also, Mr. Blades requests that,
5 based on the number of hours, cost and expenses incurred in seeking an order to
6 compel and reply memoranda, the costs awarded be increased to no less than
7 \$3,000. (Id.)

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9 II. ANALYSIS

10 After analyzing Mr. Morgalo's motion for reconsideration, I find no reason
11 to vacate, modify or alter the Opinion and Order, since the motion simply restates
12 the same arguments that have already been considered and ruled upon. It is well
13 settled that "a request for reconsideration cannot be used merely to reargue a
14 point already decided." Villanueva-Méndez v. Nieves Vázquez, 360 F. Supp. 2d
15 320, 325 (D.P.R. 2005) (citing Barrett v. Lombardi, 239 F.3d 23, 28 (1st Cir.
16 2001)). "Motions for reconsideration [are an] extraordinary remedy [that] should
17 be sparingly granted." Villanueva-Méndez v. Nieves Vázquez, 360 F. Supp. 2d at
18 326 (citing Trabal-Hernández v. Sealand Servs., Inc., 230 F. Supp. 2d 258, 259
19 (D.P.R. 2002)). As such, a motion for reconsideration "is not a means for a party
20 to request the Court 'to rethink a decision it has already made, rightly or
21 wrongly.'" Villanueva-Méndez v. Nieves Vázquez, 360 F. Supp. 2d at 325-26
22 (quoting Williams v. City of Pittsburgh, 32 F. Supp. 2d 236, 238 (W.D. Pa. 1998)).

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26 None of Mr. Morgalo's arguments show that the Opinion and Order either
27 suffers from a manifest error of law or that it is clearly unjust. Also, Mr. Morgalo
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CIVIL 07-1380 (JA)

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does not bring forth new evidence or an intervening change in controlling law that should be considered in order to prevent a manifest injustice. The fact that the documents requested appeared out of nowhere after the Opinion and Order was entered does not change the fact, as Mr. Blades points out, of the severe inconveniences that have been imposed on the court. (Docket No. 155, at 2-3, ¶ 4.) It is clear more than anything else, that Mr. Morgalo simply disagrees with the court's Opinion and Order. Therefore, I find that Mr. Morgalo is not entitled to the relief sought.

III. CONCLUSION

For the reasons set forth above, Mr. Morgalo's motion for reconsideration is DENIED.

At San Juan, Puerto Rico, this 14th of April, 2010.

S/ JUSTO ARENAS
Chief United States Magistrate Judge